

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division**

DEREK CLEMENTS, <i>et al.</i> ,)	
)	
Plaintiffs)	
)	
v.)	Civil Action No. 2:22-cv-02069-RMG
)	
LLOYD J. AUSTIN, III, <i>et al.</i> ,)	
)	
Defendants.)	
)	

PLAINTIFFS' MOTION TO STAY

Plaintiffs, by and through counsel and pursuant to Fed. R. Civ. P. 62, respectfully submit this Motion to Stay further proceedings and further execution of the Court's July 27, 2022, Order dismissing in part and severing in part the above captioned matter. Plaintiffs request the Court stay execution of its Order until resolution of Plaintiffs' intended combined Motion for Reconsideration and Leave to File an Amended Complaint pursuant to Fed. R. Civ. P. 59 and Fed. R. Civ. P. 15. Plaintiffs seek a stay of proceedings through Monday August 1, 2022, in which to file the combined motion. Defendants' Counsel was given advanced notice of this filing.

Good cause exists to grant this Motion to Stay. In amending the Complaint, Plaintiffs will voluntarily dismiss the Religious Freedom Restoration Act ("RFRA") and First Amendment causes of action. The Court's July 27, 2022, Order focused almost exclusively on these two causes of action, explaining that joinder was inappropriate given the Court's need to consider the individualized facts of 24 respective plaintiffs and their religious accommodation requests.

Removing the RFRA and First Amendment claims would effectively resolve the Court's concerns about improper joinder.

Further, a stay of the briefing and resolution of the currently pending Motion for Temporary Restraining Order ("TRO") and Preliminary Injunction ("PI") is appropriate given: (1) the TRO was requested for the Coast Guard Plaintiffs who were ordered dismissed; (2) the remaining four Plaintiffs (Clements, Kloster, Pokrant, and Vasiliu) are covered by the recent TRO issued in the class action suit *Doster v. Kendall*, No. 1:22-cv-84 (S.D. Oh. Jul. 14, 2022), which has recently ripened into a nationwide PI¹; and (3) Defendant Superintendent of the Coast Guard Academy has previously agreed to stay any removal proceedings of the Coast Guard Academy Plaintiffs until, at least, September 1, 2022. *See* Joint Motion for Extension of Time, Doc. 12 at 2.

Accordingly, given the lack of any immediate disenrollment of Plaintiffs (as described in the preceding paragraph), and the clear judicial economy that would be served by first adjudicating a Motion for Reconsideration upon the remaining causes of action, Plaintiffs request this Court grant their Motion and stay further processing of the Order to dismiss and sever and briefing of the current Motion for a PI until final resolution of their combined Motion for Reconsideration and Leave to File an Amended Complaint. Plaintiffs further request this Court afford them through Monday, August 1, 2022, in which to file their Motion for Reconsideration.

¹ The *Doster* class action solely covers the RFRA and First Amendment claims, and not the remaining APA challenges initially brought in this case, and applies to all Air Force plaintiffs.

Respectfully submitted,

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